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Reply to: Kent County Environmental Unit

May 6, 2009

Ms. Karen J. Nickerson  
Delaware Public Service Commission  
861 Silver Lake Boulevard  
Cannon Building, Suite 100  
Dover, DE 19904

**By Hand Delivery**

Re: In the Matter of the Investigation into the Adoption of Proposed Rules and Regulations to Accomplish Integrated Resource Planning for the Provision of Standard Offer Service by Delmarva Power & Light Company under 26 Del. C. § 1007(c)&(d) PSC Regulation Docket No. 60 (Opened August 21, 2007)

Dear Ms. Nickerson:

Enclosed for filing in the above-captioned docket is an original and 10 copies of the *Comments of the Delaware Department of Natural Resources and Environmental Control and the Energy Office on the Public Service Commission's Proposed Integrated Resource Planning Regulation*.

Service will be provided to the parties on the service list by electronic mail.

Should you require anything further, please contact me. Thank you very much for your assistance in this matter.

Sincerely,

Valerie M. Satterfield  
Deputy Attorney General

Enclosures

xc: Service List

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE INVESTIGATION )  
INTO THE ADOPTION OF PROPOSED )  
RULES AND REGULATIONS TO )  
ACCOMPLISH INTEGRATED RESOURCE )  
PLANNING FOR THE PROVISION OF ) **PSC REGULATION DOCKET NO. 60**  
STANDARD OFFER SERVICE BY )  
DELMARVA POWER & LIGHT COMPANY )  
UNDER 26 DEL. C. § 1007(c) & (d) )  
(OPENED AUGUST 21, 2007) )

**COMMENTS**

**OF THE**

**DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL  
CONTROL AND THE DNREC ENERGY OFFICE**

**ON THE**

**DELAWARE PUBLIC SERVICE COMMISSION'S  
PROPOSED INTEGRATED RESOURCE PLANNING REGULATION**

May 6, 2009

## **I. SUMMARY OF PROCEEDING**

On August 21, 2007, in Order No. 7263, the Public Service Commission ("PSC") opened PSC Regulation Docket No. 60 "to investigate, for possible adoption by the Commission, rules and regulations and other guidelines needed to accomplish integrated resource planning under the *Electric Utility Retail Customer Supply Act of 2006* ("Act") 75 Del. Laws ch. 242 § 6 (Apr. 6, 2006), codified at 26 Del. C. §§ 1007(c)-(d). On August 31, 2007, Commission Staff ("Staff") issued a draft Integrated Resource Planning Regulation.

The Delaware Department of Natural Resources and Environmental Control ("DNREC") has not previously commented in this Docket. However, the DNREC Energy Office ("DEO"), an operative unit of DNREC previously commented and identified concerns in Staff's draft Integrated Resource Plan ("IRP") Regulation in the DEO Initial Comments submitted on October 12, 2007.

On November 14, 2007, Staff submitted a set of proposed rules entitled "Integrated Resource Planning Regulation." In Order No. 7318, the PSC promulgated a proposed Integrated Resource Planning Regulation ("IRPR") that initiated the formal rulemaking procedure dictated by the Administrative Procedures Act. DEO and other parties filed comments on the IRPR on February 1, 2008.

On March 3, 2008, Staff further revised the IRPR to incorporate some of the comments submitted on February 1, 2008. The evidentiary hearing was held on March 12, 2008. Issues discussed at the hearing included "acknowledgment" of the IRP, the definition of "environmental benefit," the definition of "external costs," and Delmarva's role in developing demand-side management programs in light of the establishment of the Sustainable Energy Utility ("SEU").

The Hearing Examiner submitted her proposed findings and recommendations (“Hearing Examiner’s Report” or “HER”) on October 24, 2008. The HER recommended that the PSC adopt the IRPR with two revisions — a PSC approval process and changes to the definition of price stability. Several parties filed exceptions to the HER.

On December 2, 2008, the PSC heard oral argument and deliberated on the findings of the HER. In PSC Order No. 7518, the PSC remanded the docket to the Hearing Examiner to schedule and conduct evidentiary hearings to further consider and resolve outstanding issues.

The PSC directed Staff to redraft the IRPR and consider the following issues:

- Incorporation of the role of the SEU vis-à-vis this Commission in the regulations governing demand-side management;
- Whether the Hearing Examiner’s modification of Section 2.0, “Price Stability,” to provide for the “actual” price as opposed to the “real” price, is appropriate;
- How confidential information in the IRP should be treated;
- Whether other state agencies, such as DNREC and the Office of Management and Budget, should be included in the IRP review process and, if so, in what manner;
- The impact and effect of DP&L’s hedging policy on its IRP;
- The potential impact of federal climate change legislation on the IRP;
- Whether Staff should consider the input of agencies other than DNREC, or the input of the public, in assessing the “environmental benefits” of the IRP as defined in Section 2.0; and
- Whether DP&L’s assessment of any transmission enhancements should be included (Order No. 7518 at 8).

The PSC also requested further consideration of the issue of whether an “acknowledgment” and/or “approval” process was appropriate. In addition, the PSC adopted the Hearing Examiner’s and Staff’s position that “health costs” should not be included as a specific externality in the IRPR and found that regulations should cast a broad net with respect to externalities.

As directed in PSC Order No. 7518, the Hearing Examiner established a new procedural schedule and Staff issued a revised draft IRPR on March 3, 2009.

On March 4, 2009, DNREC filed a petition to intervene on PSC Docket 07-20 to provide advice and counsel to the PSC on matters related to externalities in the context of the IRP presently before it. Simultaneously, DNREC notified the Hearing Examiner in this current Docket of "...DNREC's intent to participate to the maximum extent possible in the proceedings related to the draft Integrated Resource Planning Regulations." Following are the DNREC Comments, inclusive of interests specific to the DEO, on the proposed IRPR.

## **II. BACKGROUND**

At the evidentiary hearing on March 12, 2008, and the PSC meeting on December 2, 2008, there was much discussion concerning the issue of acknowledgment or approval of IRPs. Notwithstanding DEO's previous comments on this issue in this Docket, there remains considerable confusion over the issue of IRP approval. As a regulatory agency with considerable experience in regulation development and implementation, DNREC would prefer to see clear expectations with respect to review and approval of IRPs by the PSC. In our view, an "approval" process gives more weight to the IRP product, and thus, there should be more detail and clarity to the proposed IRPR.

There has been a greater focus on externalities/external costs since the December 2, 2008, PSC meeting. As part of his environmental vision for Delaware, Governor Markell recently stated that internalizing the external costs (i.e., environmental impacts) of energy production should be "standard practice" in IRPs.<sup>1</sup> The Governor further directed DNREC to intervene in the IRP dockets to, in part, address the environmental externalities issue.

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<sup>1</sup> See *Markell Lays Out Environmental Vision for Delaware*, April 2, 2009, <http://governor.delaware.gov/news/2009/04april/120090402-environmental-vision.shtml#TopOfPage>

DNREC is admittedly late entering into this regulatory proceeding and the related process under Docket 07-20. We have entered into these proceedings to add value and to share with the PSC, Staff and the parties our views on how the IRP process can and does impact issues we all care greatly about: our health, the environment and the welfare of all Delawareans. We know the PSC cares deeply about these issues also, and we greatly respect and admire all of the hard work that has gone into the existing draft regulation, by the Staff, the parties to the proceeding and the PSC itself.

We fully understand that the March 3, 2009, draft represented a product that has been under development for over one year and that in Commission Order 7518 the PSC expressly requested comments and clarification from the parties on a limited set of topics within the regulations. What has dramatically altered our approach to this docket has been our recent intervention in Docket 07-20. These two proceedings are closely aligned and it is apparent that the regulations being considered in Regulation Docket #60 are critical to formulation of a successful IRP – and consideration of the externalities of interest to DNREC under 07-20. We greatly appreciate the PSC's interest in receiving comments from DNREC on this subject and your willingness to allow us to participate so fully in this docket.

### **III. DISCUSSION OF THE ISSUES**

Attached to these Comments are DNREC's proposed edits to Staff's proposed IRPR dated March 3, 2009. The discussion below highlights and provides context to some of the recommended edits made by DNREC.

**A. The “Commission Recognition” Step in the IRP Review Process Should Be Removed**

DNREC recommends deleting the proposed “Commission Recognition” step in the IRPR. While we understand the impetus behind inserting such a step in the consideration of an IRP, how the Staff proposes to define such Recognition — “that the plan is administratively complete in fulfilling the requirements of the rules and regulations” —and the resulting implementation of this step is unnecessary. Since an IRP is a planning process, what is most relevant is not that there is an analysis on each important point, what is most relevant is that the analysis is thorough and accurate to sustain the ultimate conclusions. Thus, DNREC believes that the proposed “Commission Recognition” step is unnecessary.

**B. The Submission, Review and Approval Process of IRP’s is Unclear**

DNREC has a wealth of experience in writing regulations and has learned (often the hard way) that a clear, concise and enforceable regulation is preferable for all concerned parties. If the regulated industry knows the rules up front, and understands what is expected of them and the governing body, it eliminates much confusion and delay in implementing the regulation. The approval process for IRP’s under proposed draft regulation is unclear, as is the process for “updating” IRP’s through the review period. We have made several suggestions on this issue in DNREC’s Comments on the IRP Regulations, understanding the PSC is bound by its own procedural requirements and those contained in the Act.

**C. The Issue of Externalities Should Be More Explicitly Considered**

DNREC appreciates the PSC's view that all externalities should be considered in the IRP. However, we believe issues related to public health, climate change and other environmental impacts from electric generation and use deserve special consideration by the Company in developing any long range plan for electric service. DNREC's interest in the outcome of Docket 07-20 is in ensuring that the IRP under consideration in that Docket appropriately accounts for the environmental value of the supply options available to the Company and that the resource mix proposed by the Company reflects the State's interest in sustainable energy practices, the health of its citizens and the potential effect of supply generation on the air quality and climate of the State. It is admittedly late in the Docket 07-20 process to be building the type of basic information and data to comprehensively consider these externalities (especially considering the lengthy and complex record in Docket 07-20), but it is precisely the right time to be building into the IRP Regulations the provisions to ensure these externalities are considered in the next Company IRP. As the principal regulator of the environment in Delaware, we believe very strongly that any future IRP must appropriately value the environmental effects of the resources mix employed by the Company. For this reason, you will note considerable suggested edits in DNREC's Comments on the IRPR concerning this important issue.

**D. The IRPR Should Require More Analysis of Transmission Service**

The consideration of Transmission Service as a resource option in an IRP is difficult because of the lack of integrated resource planning in PJM's Regional



Transmission Expansion Plan ("RTEP"). The RTEP does not proscribe targeted DSM, Customer-Sited Generation, DR, or other measures that could delay or obviate the need for a new transmission line or upgrade. DNREC's recommended language in Section 5.4 is an attempt to provide a more robust analysis of Transmission Service as a resource option for a Delmarva IRP.

**E. The Company Should Collaborate With the SEU on Conservation, DSM and Customer-Sited Generation**

Since the December 2, 2008, PSC meeting and issuance of PSC Order No. 7518, a contract administrator for the SEU has been hired and the SEU is in the process of rolling out its initial DSM and renewable energy programs. These developments have provided a clearer perspective on how the activities of the SEU should be considered in the IRP.

The SEU has been charged by statute to offer 'one-stop shopping' and be the point-of-contact for sustainable energy services in Delaware. See 29 *Del. C.*

§ 8059(g)(1)d.7. DNREC believes that Staff's proposed IRPR supports this mission of the SEU to be the primary source of DSM services in Delaware. However, the language in Section 5.7 that describes how Delmarva should interact with the SEU in the evaluation of DSM resources is somewhat awkward. DNREC has proposed language it believes is more straightforward and will encourage a collaborative effort by Delmarva and the SEU to provide DSM services to the citizens of Delaware. Statements made by Delmarva in this docket, other PSC proceedings and other public forums indicate that Delmarva intends to fully collaborate with the SEU in the development of DSM resources.

The SEU is also charged by statute to facilitate the installation of "Customer-Sited

Renewable Energy.” See 29 *Del. C.* § 8059(g)(5). We believe it is appropriate and consistent with the Act for the Company to collaborate with the SEU on its evaluation of Customer-Sited Generation resource options for an IRP.

#### **IV. CONCLUSION**

DNREC appreciates the opportunity to comment in this proceeding and looks forward to working with the PSC to develop a robust and meaningful IRP process.

Respectfully submitted,

/s/ Valerie M. Satterfield

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Dated: May 6, 2009

**A T T A C H M E N T**

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State of Delaware

Delaware Public Service Commission

Integrated Resource Planning Regulation

*STAFF'S DRAFT VERSION*

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**March 3, 2009**

<b>Content</b>	<b>Page</b>
1.0 General	1
2.0 Definitions	2
3.0 General Requirements	4
4.0 Load Forecast	5
5.0 Resource Portfolio Options	5
6.0 Plan Development	6
7.0 Proposed Plan Selection	7
8.0 Plan Implementation	7

9.0 Review & Comment .....	7
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**1.0 General****1.1 Table of Contents**

1.0	Introduction.....	4
2.0	Definitions.....	6
3.0	General Requirements.....	9
4.0	Load Forecast.....	10
5.0	Resource Portfolio Options.....	11
6.0	Plan Development.....	13
7.0	Proposed Plan Selection.....	14
8.0	Implementation Plan.....	14
9.0	Review and Comment.....	15

## 1.0 Introduction

- 1.1 The reliability of electric service and the security of energy supply are of great importance to the Delaware Public Service Commission ("Commission"), because they are essential services to the citizens of Delaware. ~~This regulation, in support of 26 Del. C. §1007, sets forth the minimum~~ The Standard Offer Service Supplier, currently Delmarva Power and Light ("DP&L" or "Company"), is required by 26 Del. C. §1007 to periodically prepare an Integrated Resource Plan ("IRP" or "the Plan") requirements needed) in order to ensure a cost effective, price stable, reliable, efficient and environmentally sound energy supply for all Standard Offer Service ("SOS") customers in Delaware.
- 1.2 ~~1.2 Nothing in this regulation~~ Regulation ~~relieves DP&L the Company from compliance~~ any obligation to comply with any requirement set forth under any other regulation, statute, or order. ~~Compliance~~ Further, the Company's submission of an IRP that complies with this regulation meets the minimum IRP the requirements—Compliance with of this regulation Regulation does not guarantee or imply plan IRP approval or automatic cost recovery.
- 1.3 ~~1.3 In accord~~ Consistent with 26 Del. C. § 1007, DP&L, as the Standard Offer Service Supplier, shall file an IRP on December 1<sup>st</sup>, 2006 the Company shall develop and file for review and approval by the Commission an IRP that complies, at a minimum, with the standards set out in the law and this Regulation. However, in creating an IRP, the Company must exercise its professional judgment based on its systems and customer needs. Further, the Company shall provide any additional detail and commentary necessary to demonstrate that the IRP meets or exceeds all IRP requirements.
- 1.4 The Company shall include sufficient information to assist the reader in fully understanding the IRP concept and the Company's plans to meet SOS energy needs. An effort shall be made to ensure that the IRP is clearly stated and can be readily comprehended by the Commission, State Agencies, and other interested parties, on the anniversary date of the first filing date
- 1.5 On or before December 1st of 2010 and every other year thereafter (i.e. 2008, 2010 et seq.). The Company, the Company, as the SOS Supplier, shall file an IRP with the Commission. However, the Company may request, and the Commission may change the, a filing date for good cause shown. These regulations shall apply to all IRPs filed pursuant to 26 Del. C. §1007. These regulations shall not apply to an IRP docket opened prior to the
- 1.6 This Integrated Resource Planning Regulation shall be effective for IRP submissions due after the effective date of this Regulation and may be reviewed, revised, or extended as necessary to ensure continued compliance with 26 Del. C. § 1001-1012 and to ensure adequate SOS energy supply.
- ~~date of these regulations:~~
- 1.7 ~~1.4~~ The IRP shall be filed in compliance with normal Commission policies and practices.
- 1.8 ~~1.5~~ The plan IRP shall identify the year of the filing, and the names and contact methods of the individuals responsible for its preparation and those. The identified individuals who shall be available to respond to inquires during the Commission's review of the plan IRP.
- 1.9 ~~1.6~~ Because an IRP may contain Trade secrets and commercial or financial information, the Company may request that information, required under this regulation Regulation, be classified as confidential, proprietary and/or privileged material. The Company must explain how the material deemed confidential, if disclosed, will cause substantial harm to the competitive position of the Company or other party. The Company must attest that such information is not subject to inspection by the public or other parties without execution of an appropriate proprietary agreement. In requesting such treatment of information the Company is also obligated to file an additional copy of the information, excluding the confidential or proprietary information. The Commission, in accordance with Rule 11, Rules of Practice and Procedure of the Delaware Public Service Commission, effective

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May 10, 1999, shall treat such information as "confidential, not for public release" upon receipt of a properly filed request. Any dispute over the confidential treatment of information shall be resolved by the Commission, designated Presiding Officer or Hearing Examiner. Confidential utility documents shall be presented under separate seal.

- 1.10 ~~1.7. Commission Recognition of a filed IRP implies only that the plan is in compliance with the administrative requirements of this regulation and the Electric Utility Retail Customer Supply Act of 2006 ("Act"), 26 Del. C. § 1001-1012. The recognition of~~ The ratification of an IRP does not confer or imply Commission approval unless so stated by an Order of the Commission. ~~Approval or disapproval of an IRP must be made by the Commission after, at a minimum, Staff's analysis of and public comment on the proposed IRP, except for summary disapproval as provided for in section 1.14 below. Any specific ratemaking treatment for the plan IRP or any portions thereof is neither directly nor indirectly guaranteed by virtue of the recognition or~~ ratification, approval or any other Commission action on the IRP.

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- 1.8. The utility shall provide whatever detail and commentary necessary to demonstrate that it has met or exceeded the planning requirements as set forth in this regulation. An effort shall be made to ensure that the IRP is clearly stated and can be readily comprehended by the Commission, State Agencies, and other interested parties. The IRP shall include an Executive Summary.

- 1.9. Compliance with this regulation is a minimum standard for IRPs. The Company needs to exercise its professional judgment based on its systems and customer needs. The Company shall include all information that assists the reader to fully understand the IRP concept and the Company's plans to meet SOS energy needs.

- 1.11 ~~1.10~~ This regulation ~~Regulation~~ requires the maintenance and retention of supply resource planning data and the reporting of plan IRP achievements on an annual basis starting in 2009 to the Commission, Governor and General Assembly. The Company shall retain such data, consistent with Federal data retention guidelines and make it available for further review as necessary.

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- 1.11 The Company shall submit a total of ~~14~~ fifteen copies of its IRP - eight (8) copies to the Commission, two (2) copies to the Controller General's office, two (2) copies to the Office of Management and Budget, and two (2) three copies to the Energy Office/DNREC. The Commission may request up to six (6) additional copies of combined and common filings as may be necessary for review.

~~1.12 These Integrated Resource Planning Regulations. The Company shall be effective for also make the full IRP dockets opened after the effective date of these regulations, including any and may be reviewed, revised all appendices, supporting materials, or extended other documents available to the general public on their web site, and shall maintain their web site to stay current will all subsequent filings made prior to final disposition of the IRP by the Commission as necessary to ensure continued compliance with 26 Del. C. § 1001-1012 and to ensure adequate SOS energy supply.~~

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- 1.12 ~~1.13~~ defined in 1.14 below.

- 1.13 Failure of the Company to file an IRP that meets the requirements of this Regulations and is sufficient to be approved by the Commission or to provide the required progress reports as required may subject the Company to the penalty and remedial provisions of the Delaware statute (26 Del. C. § 1019).

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- 1.14 ~~2.0~~ After the Company's submission of its IRP, and after a hearing, the Commission, in the public interest, shall take one of the following actions: a) approve the IRP; b) approve the IRP subject to stated conditions; c) approve the IRP with modifications; d) approve the IRP in part and reject it in part; e) reject the Company's IRP as filed; or f) provide an alternative IRP. However, the Commission

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may summarily disapprove of an IRP without holding a hearing if the Commission finds that the IRP is substantially lacking on its face.

## 2.0 Definitions

The following words and terms, as used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise.

**"Brownfield" or "Industrial site"** means a site that has been previously used for industry and may be contaminated, or need environmental remediation for continued use or redevelopment any vacant, abandoned or underutilized real property the development or redevelopment of which may be hindered by the reasonably held belief that the real property may be environmentally contaminated.<sup>1</sup>

**"Capacity"** means the maximum power capability of a piece of equipment. For example, a generating unit might have a rated capacity of 50 megawatts.

**"Commission"** means the Delaware Public Service Commission.

**"Commission Recognition"** means that within 45 days after the Company has filed its IRP the Commission finds that the plan is administratively complete in fulfilling the requirements of the rules and regulations.

**"Commission Ratification"** means that after the completion of the regulatory process, including analysis by Staff and input from the public and other parties, the Commission finds that the IRP is not unreasonable and appears to be in the best interest of the ratepayers. Any specific ratemaking treatment for the plan or any portions thereof is neither directly nor indirectly guaranteed by virtue of the ratification.

**"Commission Approval"** means that if the Company requests and the Commission approves specific policies, contracts or guidelines that are attached to by majority vote has found the IRP for rate making or Implementation Plan is not unreasonable, meets the requirements of this Regulation, is in the public interest and satisfies the goals and purposes. Certain policies, contracts, or guidelines previously approved by of the Commission will not need additional Commission approval in the IRP unless materially changed.

**"Conservation"** means any reduction in electric power consumption that results from improved efficiency, avoidance of waste, reduced consumption, or other energy usage reductions that may result from installing new equipment, modifying existing equipment to improve efficiency, adding insulation or changing behavior patterns.

**"Customer-Sited Generation"** means a generation unit that is interconnected on the end-use customer's side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the end-use customer.

**"Demand Response ("DR")"** means programs that are designed specifically to reduce electricity demand during periods of supply constraint. These programs do not necessarily reduce total annual energy consumption.

**"Demand-Side Management ("DSM")"** means cost effective energy efficiency programs that are designed to reduce customers' electricity consumption, especially during peak periods.<sup>2</sup>

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<sup>1</sup> 7 Del C. §9103

<sup>2</sup> 26 Del. C. § 1001 (5).



"DNREC" means the Delaware Department of Natural Resources and Environmental Control

"DP&L" or "Company" means the Standard Offer Service Supplier currently Delmarva Power & Light Company, Inc.-or its- and any successor organizations.

"Energy" means electrical energy. In this sense, energy is a measure of the quantity of units of electricity used in a given time period, measured in megawatt- hours.

"Environmental Benefit" means the positive environmental impact of ~~environmental services, practices or other ecological influences attained by specific actions,~~ minus the negative environmental impacts ~~caused impact attained by these specific actions.~~ Staff will give due consideration including, but not limited to input from DNREC, interveners, energy generation and public comment distribution, transmission service, conservation, customer-sited generation, DR, or DSM.

"Environmental Impact" means the result of an action, outcome or activity related to the IRP, on natural and physical resources including, but not limited to, wetlands, sea levels, fisheries, air quality, water quality and quantity, public health, climate impacts, land masses, and ground water.

"Externalities" means the social, health and/or welfare costs or benefits of energy which result from the production, delivery or reduction in use through efficiency improvements, and which are external to the transaction between the supplier (including the supplier of efficiency improvements) and the wholesale or retail customer. Externalities should be quantified and expressed in monetary terms where possible. Those externalities that cannot be quantified or expressed in monetary terms shall nonetheless be qualitatively considered.

"Fuel Diversity" means the utilization of resources to supply energy to SOS customers that are procured in such a way as to diminish the risk of adverse changes in fuel prices for electric generation, either through a mix of electric generating resources that utilize a variety of fuel sources, fuel hedges, Customer-Sited Generation resources, both renewable and nonrenewable, application of appropriate risk management practices, DSM or a combination of these activities and assets.

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"Generation Attributes" means non-price characteristics of the electrical energy output of a generation unit including, but not limited to, the ~~unit's~~ fuel type, geographical location, emissions, vintage and Renewable Energy Portfolio Standards (26 Del. C. § 351-363) eligibility.

"Implementation Plan" means an action plan which outlines the short and long term planned actions of the Company to secure necessary energy, capacity, transmission and other appropriate resources as further described in the Integrated Resource Plan.

"~~Integrated Resource Plan~~ Planning (IRP)" means the planning process of ~~an Electric Distribution Company~~ the Standard Offer Service supplier that systematically evaluates all available options, including but not limited to: generation, ~~Supply Contracts~~, transmission and Demand-Side Management programs during the planning period to ensure that the electric distribution Company acquires sufficient and reliable resources over time that meet their customers' needs at a minimal cost.<sup>3</sup>

"Integrated Resource Evaluation" means a process within the IRP that considers and compares supply- and demand-side resources to select a final resource mix.

"Load Forecast" means the estimated future annual electricity usage; that is used to help electric utilities make resource allocation decisions.

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<sup>3</sup>26 Del. C. § 1001(13). Note: there is no 1001 (13) in Title 26 and the inclusion of the words supply contracts is not found in the definition

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"New or Innovative Baseload Technologies" means energy resources using new or innovative technologies to generate electricity on a typical round-the-clock basis.

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"Nominal Price" means the price paid for a product or service at the time of the transaction that has not been adjusted to reflect the effects of inflation.

"PJM Interconnection, L.L.C. ('PJM') means the Regional Transmission Organization or successor organization that is responsible for wholesale electricity markets and the interstate transmission of electricity throughout a multi-state operating area that includes Delaware.

"Portfolio" or "Resource Portfolio" means the combination of physical assets (e.g. electric generating, self-generating, and transmission assets), financial products (e.g. Supply Contracts for energy and related services), market resources (e.g., spot market energy purchases), DSM and DR programs, and Customer-Sited Generation resources, both renewable and non renewable, that the Electric Distribution Company uses to satisfy current and future energy procurement requirements for SOS customers, while managing which is designed to manage the risk of adverse price changes to SOS customers.

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"Plan Objectives" means the targets or goals of an IRP plan needed to measure the impact and/or success of the plan's actions. Such goals or targets must be definitive, measurable and verifiable. Refer to 1.1 for IRP objectives.

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"Price Stability" means the lack of significant variation in the real price and nominal price paid by SOS customers over the planning period.

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"Real Price" means the value after adjusting for inflation. Real price is expressed in constant dollars reflecting buying power relative to a base year.

"Reliability" means the degree of performance of the elements of the bulk electric system that results in electricity being delivered to customers within accepted standards and in the amount desired. Reliability may be measured by the frequency, duration, and magnitude of adverse effects on the electric supply. Electric system Reliability can be addressed by considering two basic and functional aspects of the electric system – Adequacy and Security.

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Adequacy is the ability of the electric system to supply the aggregate electrical demand and energy requirements of customers at all times, taking into account scheduled and reasonably expected unscheduled outages of system elements.

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Security is the ability of the electric system to withstand sudden disturbances such as electric short circuits or unanticipated loss of system elements.<sup>4</sup>

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As applied to distribution facilities, Reliability is further described as the degree to which safe, proper and adequate electric service is supplied to customers without interruption.

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"Resource Portfolio" ~~seem~~ means "Portfolio".

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"Retail Competition" means the right of a customer to purchase electricity from a certified electric supplier.

<sup>4</sup>NERC definition - NERC's Reliability Assessment 2001-2010, dated October 16, 2001.

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"Standard Offer Service ("SOS")" means the provision of electric supply service by a Standard Offer Service Supplier to customers who do not otherwise receive electric supply service from a certified electric supplier.

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"Standard Offer Service Supplier" means the electric distribution company serving within its certificated service territory.

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"Supply Contracts" means short or long term power procurement contracts as may be negotiated and agreed upon to meet defined requirements, more specifically for Delaware's Standard Offer Service customers.

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"Scenario Analysis" means a component of integrated resource planning that analyzes and assigns probabilities to a variety of possible future conditions and the options available to deal with them. Its primary purpose is to facilitate better resource planning decisions by assessing and quantifying the economic and other risks related to a particular decision.

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"Transmission Service" means the delivery of electricity from supply sources through transmission facilities to distribution system interconnection points.

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"Wholesale Electricity Market" means the various PJM markets in which the purchase and sale of electric energy, capacity, and ancillary services from generators to resellers/wholesale suppliers (who sell to retail customers) takes place at the transmission level.

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### 3.0 General Requirements

3.1. 3.1—Consistent with the requirements of 26 Del. C. §1007 and this regulation, the Company shall file a new and complete IRP every two years, starting on December 1 of 2010 (the first even-numbered year after the effective date of these regulations), that adheres to the following general principles requirements:

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3.1.1. 3.1.1—The IRP shall provide a framework for comparing a comprehensive resource mix of supply- and demand-side and Transmission Service resource costs and attributes.

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3.1.2. 3.1.2—The IRP shall utilize a Resource Portfolio in achieving the objectives of the IRP, shall incorporate a Portfolio approach to securing resources and incorporating an analysis of risk versus certainty into the planning process, or absent such a Portfolio approach, the rationale supporting the exclusion.

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3.1.3. 3.1.3—The IRP process shall provide for meaningful regulatory, stakeholder and public input into the development of the IRP in accordance with normal Commission policies and practices.

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3.1.4. 3.1.4—The IRP shall include provisions for the IRP to be modified from time to time, as may be necessary to conform with any subsequent legislative or regulatory directives, and any such modifications shall be submitted to the Commission for approval in accordance with normal Commission policies and practices.

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3.2 3.2—The IRP shall, at a minimum, include the following minimum requirements:

3.2.1 3.2.1—An executive summary with a short description of the utility, its customers, service territory, current facilities, planning objectives, notable areas of departure in the new IRP from the

old, citing specific location within the IRP where the new aspects shall be found, Load Forecast, recommended Resource Portfolio and action plan/Implementation Plan.

3.2.2 ~~3.2.2~~ Established Plan Objectives in quantitative and qualitative terms by which the ~~plan~~IRP achievements may be measured and shall not be biased against any particular option. Measures must be ascribed to each objective. The Company must include a summary of the overall process; and models used in developing the IRP.

3.2.3 ~~3.2.3~~ A description of the load forecast, the assumptions used or implicit in creating the forecast, the range of forecast examined, and the forecast selected for the filing period and a detailed rationale for such selection.

3.2.4 ~~3.2.4~~ A listing of all the options considered to meet the load forecast, identification of those chosen for further evaluation and possible inclusion in the ~~plan~~IRP and a discussion of the rationale for such selections including any key assumptions. This planning information shall include a 10-year planning horizon, starting with the year immediately following the filing year (i.e. filing year of 2010 shall include planning information for years 2011 through 2020). These options include, but are not limited to:

3.2.4.1 ~~3.2.5~~ Options that increase the available supply from or efficiency of, existing utility facilities, such as plant heat-rate improvements, plant refurbishment and life-extension, transmission and distribution system loss reduction;

3.2.4.2 Options that increase the available supply from new utility sources, such as new conventional plants and new advanced technology plants;

3.2.4.3 Options that increase the available supply from utility sources, including spot market purchases;

3.2.4.4 Options that increase the available supply from non-utility sources, such as cogenerators and independent power producers;

3.2.4.5 Options that reduce demands for utility-supplied power and energy through energy efficiency;

3.2.4.6 Options that reduce demands for utility-supplied power and energy through demand response and energy management; and

3.2.4.7 Options that reduce demands for utility-supplied power and energy through the use of alternative fuels.

3.2.5 A thorough assessment and analysis of the environmental benefit and externalities associated with all identified possible options for meeting load forecast during the planning period.

3.2.6 A description of the Scenario Analysis used to integrate the options into a single resource plan or individual scenario for further review and analysis, to include a listing of the various scenarios considered and any key assumptions.

3.2.7 ~~3.2.6~~ A description of the process used to develop the proposed IRP, including the assumptions and analysis leading up to the decision, and the application of the valuation criteria as specified in section 5.0.

3.2.8 ~~3.2.7~~ An analysis of the risk and sensitivity of the proposed IRP in comparison to other options also considered.

3.2.9 ~~3.2.8~~ Action plans for implementation of the IRP, Implementation Plans for no less than five (5) years, starting with the year immediately following the filing year.

#### 4.0 Load Forecast

4.1 ~~4.1~~ The Company shall consider a range of load growth forecasts that include:

4.1.1 ~~4.1.1~~ Both historical data and future estimates.

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~~4.1.2~~ 4.1.2—Both winter and summer peak demand for total Delmarva Delaware load and Delmarva Delaware SOS load by customer class.

~~4.1.3~~ 4.1.3—Weather adjustments, including consideration of climate change potential.

~~4.1.4~~ 4.1.4—Five (5) year historical loads, current year-end estimate and ten (10) year weather adjusted forecast showing individually and aggregated Delmarva Delaware and Delmarva Delaware SOS load; and both Delmarva Delaware and Delmarva Delaware SOS load ~~disaggregated~~ disaggregated by customer classes, including both capacity (MW) and energy requirements (MWh).

~~4.1.5~~ 4.1.5—The forecast of energy and demand shall identify and describe the significant determinants used in forecasting future peak demand and energy usage. In addition to end-use specifications, each forecast should address the following factors influencing peak demand and energy usage, where appropriate:

4.1.5.1 Demographics, including population, number of households, household type (e.g., single versus multi-family), employment and income;

4.1.5.2 Economic conditions, including gross product of the service area;

4.1.5.3 Price of electricity and price elasticity of demand for electricity;

4.1.5.4 The substitution of electricity for and with competing fuels in end-uses, including the rates of penetration and saturation of the market of those end-uses;

4.1.5.5 The future price of competing end-use fuels;

4.1.5.6 Behavioral factors which affect energy use by customers;

4.1.5.7 Energy policies of the state and federal government affecting energy use, both existing and reasonably anticipated; and

4.1.5.8 Any other factors deemed relevant.

~~4.1.6~~ Analyses of how existing and forecast Conservation, DR, DSM, Customer-Sited Generation, various economic and demographic factors, including the price of electricity, will affect the consumption of electric services; and how customer choice under Retail Competition of utility service may affect future loads.

~~4.1.7~~ 4.1.6—Description of the process the ~~company~~ Company used to develop these forecasts. Forecasts shall include the probability of occurrence. Within the forecasting modeling descriptions the Company shall demonstrate how well its model predicted past load data for the prior five (5) years.

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## ~~5.0~~ 5.0—Resource Portfolio Options

~~5.1~~ 5.1—The Company shall include a description of the overall process and the analytical techniques it used to identify its proposed options. The Company shall not rely exclusively on any particular resource or purchase procurement process.

~~5.2~~ 5.2—The Company shall identify and evaluate all reasonable resource options including generation and distribution, transmission service, Supply Contracts, both short- and long-term procurement DSM, DR, and demand-side and demand-response management strategies customer sited generation, even if a particular strategy is ultimately not recommended by the Company. The IRP must show an investigation of all reasonable opportunities for a more diverse supply at the lowest reasonable cost, after considering environmental benefits and externalities. The Company should shall also provide its hedging guidelines. If there are and shall identify any changes from the existing hedging policy, Company should so state. Any. All cost evaluation should evaluations shall state whether real or nominal costs were used. It. Cost evaluations shall contain a description of each option and an evaluation that considers the economic and environmental value of the following:

~~5.2.1~~ 5.2.1—Resources that utilize New or Innovative Baseload Technologies;

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~~5.2.2~~ ~~5.2.2~~—Resources that provide short or long term Environmental Benefits to the citizens of this State;

~~5.2.3~~ ~~5.2.3~~—Facilities that have existing fuel and transmission infrastructure;

~~5.2.4~~ ~~5.2.4~~—Facilities that utilize existing brownfield or industrial sites;

~~5.2.5~~ ~~5.2.5~~—Resources that promote Fuel Diversity;

~~5.2.6~~ ~~5.2.6~~—Resources or facilities that support or improve Reliability; or

~~5.2.7~~ ~~5.2.7~~—Resources that encourage Price Stability.

~~5.3~~ ~~5.3~~—The Company shall provide a description of the options recommended for inclusion in the proposed plan IRP, including a description of the mechanism or process used for valuing each option. Such valuation shall also include consideration for the life expectancy of the resource, if the resource provides capacity and/or energy, any improvements to system Reliability, the dispatchability of the source, any lead time requirements, the flexibility of the resource, the Generation Attributes of the resource, the efficiency of the resource, and the opportunities for customers' participation. The valuation shall assess the probability of securing the options according to modeling information used, including any key assumptions. The Company shall provide the estimated energy and capacity impacts for each option and the rationale behind the estimate.

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~~5.4~~—Where Transmission Service is identified as a planning option, the Company shall describe the transmission enhancement, the location, and provide PJM's assessment of the impact of the proposed transmission asset when available. The IRP shall reflect describe the current projects included in PJM's Regional Transmission Expansion Plan.

~~5.4~~ ~~5.5~~—(RTEP). The Company shall conduct an analysis to determine the impact of its proposed plan on the RTEP and a resource portfolio option that would delay or obviate projects in the RTEP. At least 30 percent of the resource mix shall be acquired through the regional Wholesale Electricity Market via a bid procurement or auction process held by DP&L. (Docket No. 04-391.)

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~~5.5~~ ~~5.6~~—The Company shall also include discussion of known plans to reduce existing physical, contractual or service related Portfolio resources during the IRP planning period.

~~5.7~~—

The Company shall evaluate all technically feasible and cost-effective DR improvements. Where non-Company evaluations of DSM and Conservation are available through the DSM and DR programs and measures, the Company shall collaborate with the Sustainable Energy Utility ("SEU") (or other organization as requested by the Commission), the Company shall summarize the results and actions taken (29 Del. C. 8059) in its evaluation of Conservation and DSM resources. The Company may enter into a contractual relationship with the SEU or other energy service providers (whose primary function is to develop end-user markets for energy efficiency services and customer-sited renewable energy, implement conservation and DSM. The Company may propose to facilitate private sector implementation of the SEU's market development plans) to provide services to accomplish the SEU's Demand Side management plans. Any Company proposed DSM program include conservation and DSM programs rejected by the SEU may be included in the IRP. Where Conservation, DSM, and DR programs are new, the Company shall summarize the anticipated benefits with respect to load reductions and provide supporting material to justify the new program provide program evaluations.

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~~5.6~~ ~~5.8~~—

~~5.7~~ The Company shall collaborate with the SEU and State Agencies in its evaluation of Customer-Sited Generation resource options. The Company may enter into a contractual relationship with the SEU or other energy service providers to implement a Customer-Sited Generation resource option strategy.

~~5.8~~ The Company shall assess the Resource Portfolio options against the set of Plan IRP Objectives and criteria.

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6.0 ~~6.0~~ Plan Development

~~6.1~~ ~~6.1~~ The Company shall conduct an Integrated Resource Evaluation in formulating its potential plans for supply and demand-side resource scenarios. The Company shall describe the mechanism or process by which the Load Forecast and options have been blended into the various IRP scenarios. In integrating its supply and demand-side resources, the Company shall:

~~6.1.1~~ ~~6.1.1~~ Provide a discussion of how the Company might alter the recommended plan~~IRP~~ in the future if the key planning assumptions used to develop the recommended plan~~IRP~~ in the future turn out to be different than what was assumed in preparing the recommended plan~~IRP~~.

~~6.1.2~~ ~~6.1.2~~ Evaluate the cost-effectiveness of the options from the perspectives of the utility and the different classes of ratepayers.

~~6.1.3~~ ~~6.1.3~~ ~~Estimate a range of external costs~~Detail and give consideration to environmental benefits and externalities associated with the utilization of specific methods of energy production. This consideration shall include the following:

~~6.1.3.1~~ A current evaluation of the utilization of new or innovative baseload technologies;

~~6.1.3.2~~ A current evaluation of the feasibility of utilizing renewable resources including wind and solar power and any other resources with short-term or long-term environmental benefits;

~~6.1.3.3~~ A current evaluation of the feasibility of utilizing facilities or locations in existing brownfield or industrial sites;

~~6.1.3.4~~ A current evaluation of public health externalities including, but not limited to, costs associated with increased asthma and lung related medications, hospitalizations, Medicaid/Medicare costs, increased lung and heart impacts and increased cancer incidences and related medications and hospitalizations.

~~6.1.3.5~~ A current evaluation of public welfare externalities including, but not limited to, impacts from visibility impairment and increased global warming, loss of habitat, rising sea levels, decreased tourism and increased spending for negating those impacts such as beach replenishments, etc..

~~6.1.4~~ The utility shall quantify the magnitude of the external costs, in terms of dollars and other factors such as unregulated and legally allowable emissions. The IRP shall include an estimate of a range of externalities which may be intangible, in order to show how explicit consideration of them might affect selection of options. The utility shall attempt to quantify the magnitude of the externalities, for example, in terms of the amount of emissions released and dollar estimates of the costs of such externalities. Intangible and qualitative external impacts should similarly be assessed.

~~6.1.5~~ ~~6.1.4~~ The IRP shall not include any assumptions that the externalities are adequately addressed by either fact that the IRP meets the Renewable Energy Portfolio Standards or that the generating units to be utilized comply with existing environmental regulations.

~~6.1.6~~ Evaluate the financial, competitive, Reliability~~reliability~~, and operational risks associated with the options recommended by the IRP and how these risks may be mitigated over the 10-year planning period. Each candidate plan shall include a discussion of the likelihood of the occurrence of such risks.

~~6.1.7~~ ~~6.1.5~~ For the options included in the proposed plan identified in the IRP, the IRP shall include an analysis of the fuel risk associated with the proposed Resource Portfolio and how such fuel risk will be mitigated when the proposed plan is implemented.

~~6.1.8~~ ~~6.1.6~~ Perform sensitivity analyses on each of the candidate plans to include variations in key assumptions and to assess the likelihood of planned outcomes. The sensitivity analyses should~~shall~~

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include among other analyses the impact of proposed or existing rules and regulations on a local, regional or national level related to climate change.

6.2 The Company shall forward a copy of the IRP to DNREC and seek input into externalities, including but not limited to, health effects.

6.3 In developing candidate plans, special attention shall be given to ensuring consistency between the IRP and typical rate-making processes. While the ultimate consumer price associated with the plan is important, the stability of rates and other factors as described in Section 5.2 need to be considered in any candidate plan selection.

## 7.0 Proposed Plan Selection.

7.1 The Company shall select and file the proposed IRP which it believes that is the most consistent with the criteria set forth in 26 Del. C. § 1007 and this Regulation. The Company shall describe the rationale behind its selection, including any modeling or methodology used as the basis for selection of the proposed plan.

7.2 In filing the proposed IRP, the Company shall provide at a minimum a five (5) year forecast of supply rates by customer class that would be anticipated based on the IRP planning assumptions and recommended procurement strategy.

## 8.0 Implementation Plan

8.1 As part of the IRP, the Company shall file a plan needed to implement the IRP. Such plan Implementation Plan shall be a five (5)-year action plan outlining the resource decisions intended to implement the IRP including anticipated contractual arrangements necessary to implement the IRP. The Implementation plan shall include:

8.1.1 Actions to be taken in the first two (2)-years and outline actions anticipated in the last three (3)-years; and

8.1.2 For IRP's filed on or after December 1, 2010, a status report of the specific actions contained in the previous action plan, including what risk assumptions were made and what actually occurred; and

8.1.3 Schedule a schedule of key activities related to the plan implementation.

8.2 After the Company's submission of its Implementation Plan, and after a hearing, the Commission, in the public interest, shall take one of the following actions: a) approve the Plan; b) approve the Plan subject to stated conditions; c) approve the Plan with modifications; d) approve the Plan in part and reject it in part; e) reject the Company's Plan as filed; or f) provide an alternative Plan. However, the Commission may summarily disapprove of a Plan without holding a hearing if the Commission finds that the Plan is substantially lacking on its face.

8.3 The Company shall comply with the Implementation Plan, but may submit proposed modifications to the Commission, which will be approved if they are consistent with this Regulation and good cause is shown.

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## 9.0 Review and Comment

9.1 ~~9.1~~ ~~As On or before~~ of each year, as part of the process commencing in 2009 and continuing on an annual basis, the Company shall submit a report to the Commission, the Governor and the General Assembly detailing their progress in implementing their IRPs.

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9.2 ~~9.2~~ The Commission, interested State Agencies, interested parties and the general public shall be provided an opportunity for review and comment on the Company's IRP filings. ~~The Commission shall seek input from DNREC (assuming DNREC has intervened) on the issue of externalities due to emissions, as the result of the proposed IRP.~~

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9.3 ~~9.3~~ Subsequent to the IRP recognition and after input from the public, and other parties, the Commission may approve or ratify the filing of the Company's IRP and its compliance with these regulations. ~~Ratification Approval or ratification~~ that the IRP complies with the statute shall not guarantee a particular ratemaking treatment of future resource acquisitions. To the extent that the Commission determines that the IRP is not compliant with the statute or is unlikely to meet the goals of the statute, the Company shall revise its IRP to meet these requirements ~~on a schedule to be established by the Commission~~. Rate treatment shall be addressed in rate or other proceedings as filed by the utility or as initiated by the Commission.

9.4 The Integrated Resource Plan may be used as a factor in rate cases to evaluate the performance of the utility. Reports provided under this ~~regulation~~ Regulation are subject to annual review and audit by the Commission and interested State Agencies. The Company must maintain sufficient records to permit a review and confirmation of material contained in all required reports.

9.4

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